

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Tyrone Noel Nunn,

Plaintiff

v.

High Desert State Prison, et al.,

Defendants

Case No. 2:24-cv-01317-CDS-NJK

Order Dismissing and
Closing Case

Pro se plaintiff Tyrone Nunn, who is incarcerated in the custody of the Nevada Department of Corrections (“NDOC”) and assigned NDOC #1252474, brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he allegedly suffered while incarcerated at High Desert State Prison. See ECF No. 1-1. On July 22, 2024, the magistrate judge ordered Nunn to pay the full \$405 filing fee or file a complete application to proceed *in forma pauperis* by September 20, 2024. ECF No. 3. The magistrate judge warned Nunn that the action could be dismissed if he failed to timely comply. That deadline expired and Nunn did not pay the filing fee or file a complete application to proceed *in forma pauperis*. Rather, Nunn belatedly filed a document titled “in forma pauperis” that states simply “28 U.S.C. 1915a.” ECF No. 4.

I. Discussion

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of

1 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
2 (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d
3 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation and
5 the Court's interest in managing its docket, weigh in favor of dismissing Nunn's claims. The third
6 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
7 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
8 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
9 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
10 the factors favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic alternatives can be
12 used to correct the party's failure that brought about the Court's need to consider dismissal. *See*
13 *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
14 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
15 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts "need not exhaust every
16 sanction short of dismissal before finally dismissing a case, but must explore possible and
17 meaningful alternatives." *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this
18 court cannot operate without collecting reasonable fees, and litigation cannot progress without a
19 plaintiff's compliance with the court's orders, the only alternative is to enter a second order
20 setting another deadline. But repeating an ignored order often only delays the inevitable and
21 further squanders the court's finite resources. The circumstances here do not indicate that this
22 case will be an exception. Indeed, Nunn has filed over 80 pro se lawsuits in this district since July
23 2023.¹ Dozens of these lawsuits have been dismissed because Nunn failed to correct fundamental
24 defects with them like filing a single, signed complaint and either paying the filing fee or filing a
25 complete application to proceed *in forma pauperis*. Setting another deadline is not a meaningful
26 alternative given these circumstances. So the fifth factor favors dismissal.

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¹ I take judicial notice of the online docket records of the U.S. Courts, which may be accessed by the public
at: <https://pacer.uscourts.gov>.

1 **II. Conclusion**

2 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
3 dismissal. It is therefore ordered that this action is dismissed without prejudice based on Tyrone
4 Nunn's failure to pay the filing fee or file a complete application to proceed *in forma pauperis* in
5 compliance with the court's order. The Clerk of Court is directed to enter judgment accordingly
6 and close this case. No other documents may be filed in this now-closed case.

7 Dated: December 12, 2024

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10 Cristina D. Silva
11 United States District Judge
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